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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,684	03/07/2001	Albert D. Baker	23-2	5046

7590 10/21/2005
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

EXAMINER

HSU, ALPUS

ART UNIT PAPER NUMBER

2665

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/800,684	Applicant(s) BAKER ET AL.	
	Examiner Alpus H. Hsu	Art Unit 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's arguments, see pages 3-9 of the Appeal Brief, filed 12 August 2005, with respect to the rejection(s) of claim(s) 1-16 under 35 U.S.C. 103(a) over Itoh et al. in U.S. Patent No. 6,421,346 in view of Northcutt et al. in U.S. Patent No. 6,678,741 have been fully considered and are persuasive. Therefore, the final rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sasagawa in U.S. Patent No. 6,308,217 (of record).

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by SASAGAWA in U.S. Patent No. 6,308,217 (of record).

Regarding claim 1, SASAGAWA discloses a method for configuring a first device (2-1 and 3-1) of a communication system, the method comprising the steps of: receiving at least one message in the first device from a second device (11 or 12) of the communication system (S1 in Fig. 41); determining if a protocol version of the at least one message is the same as a protocol version associated with the second device in a memory (21) of the first device (S11 in Fig. 42); determining if the protocol version of the at least one message is a known protocol version when the protocol version of the at least one message is not the same (S12 in Fig. 42), and updating the protocol version associated with the second device in the memory of the first device when the protocol version of the at least one message is known (S12 in Fig. 42); and processing the at least

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one message at the first device when the protocol version of the at least one message is the same (S14 in Fig. 42) (see also col. 2, lines 15-30, 46-67, col. 5, lines 9-37, col. 9, line 62 to col. 11, line 11, col. 11, lines 20-34).

Regarding claim 2, SASAGAWA discloses that the first device comprises a switch (2-1) of the communication system.

Regarding claim 3, SASAGAWA discloses that the second device comprises a customer premises equipment (CPE) device of the communication system (col. 4, lines 31-32).

Regarding claim 4, SASAGAWA discloses that the protocol comprises an asynchronous transfer mode (ATM) user-network interface (UNI) protocol (col. 4, lines 37-43).

Regarding claim 5, SASAGAWA discloses that the at least one message analyzed to determine the particular version of the protocol comprises a signaling channel message received over a signaling channel established between the first and second devices (col. 6, lines 56-57).

Regarding claim 6, SASAGAWA discloses that the step of determining if a protocol version of the at least one message is the same as a protocol version associated with the second device in a memory of the first device further comprises the step of determining if an information element identifier extracted from the at least one message is a valid information element identifier for the protocol version associated with the second device in a memory of the first device (col. 10, lines 11-30).

Regarding claim 7, SASAGAWA discloses that a call processing function of the first device is adjusted so as to provide a feature associated with the particular version of the protocol (col. 10, line 48 to col. 11, line 11).

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Regarding claim 8, SASAGAWA discloses an apparatus (3) for use in configuring a first device (2-1) of a communication system, the apparatus comprising: a memory (21); at least one processor (22 and 23) coupled to the memory, associated with the first device and operative to: (i) receive at least one message in the first device from a second device (11 or 12) of the communication system; (ii) determine if a protocol version of the at least one message is the same as a protocol version associated with the second device in a memory of the first device; (iii) determine if the protocol version of the at least one message is a known protocol version when the protocol version of the at least one message is not the same, and update the protocol version associated with the second device in the memory of the first device when the protocol version of the at least one message is known; and (iv) process the at least one message at the first device when the protocol version of the at least one message is the same (see col. 2, lines 15-30, 46-67, col. 5, lines 9-37, col. 9, line 62 to col. 11, line 11, col. 11, lines 20-34).

Regarding claim 9, SASAGAWA discloses that the first device comprises a switch (2-1) of the communication system.

Regarding claim 10, SASAGAWA discloses that the second device comprises a customer premises equipment (CPE) device of the communication system (col. 4, lines 31-32).

Regarding claim 11, SASAGAWA discloses that the protocol comprises an asynchronous transfer mode (ATM) user-network interface (UNI) protocol (col. 4, lines 37-43).

Regarding claim 12, SASAGAWA discloses that the at least one message analyzed to determine the particular version of the protocol comprises a signaling channel message received over a signaling channel established between the first and second devices (col. 6, lines 56-57).

Regarding claim 13, SASAGAWA discloses that the step of determining if a protocol version of the at least one message is the same as a protocol version associated with the second device in a memory of the first device further comprises the step of determining if an information element identifier extracted from the at least one message is a valid information element identifier for the protocol version associated with the second device in a memory of the first device (col. 10, lines 11-30).

Regarding claim 14, SASAGAWA discloses that a call processing function of the first device is adjusted so as to provide a feature associated with the particular version of the protocol (col. 10, line 48 to col. 11, line 11).

Regarding claim 15, SASAGAWA discloses a machine-readable medium storing one or more programs for configuring a first device of a communication system, wherein the one or more programs when executed by a processor implement the steps of: receiving at least one message in the first device from a second device (11 or 12) of the communication system (S1 in Fig. 41); determining if a protocol version of the at least one message is the same as a protocol version associated with the second device in a memory (21) of the first device (S11 in Fig. 42); determining if the protocol version of the at least one message is a known protocol version when the protocol version of the at least one message is not the same (S12 in Fig. 42), and updating the protocol version associated with the second device in the memory of the first device when the protocol version of the at least one message is known (S12 in Fig. 42); and processing the at least one message at the first device when the protocol version of the at least one message is the same (S14 in Fig. 42) (see also col. 2, lines 15-30, 46-67, col. 5, lines 9-37, col. 9, line 62 to col. 11, line 11, col. 11, lines 20-34).

Regarding claim 16, SASAGAWA discloses a method for configuring a first device of a communication system, the method comprising the steps of: receiving at least one message in the first device from a second device of the communication system; determining if an information element identifier extracted from the at least one message is a valid information element identifier for a protocol version associated with the second device in a memory of the first device; determining if the extracted information element identifier is a valid information element identifier for another protocol version when the extracted information element identifier is not valid for a protocol version associated with the second device, and updating the protocol version associated with the second device in the memory of the first device when the extracted information element identifier is valid for another protocol version; processing the message at the first device when the extracted information element identifier is valid for a protocol version associated with the second device (see col. 2, lines 15-30, 46-67, col. 5, lines 9-37, col. 9, line 62 to col. 11, line 11, col. 11, lines 20-34).

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Matsuzawa, Verbesselt et al. and Tanaka are additionally cited to show the common feature of connection setup between terminals utilizing ATM signaling protocol messages similar to the claimed invention.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHH

A handwritten signature in black ink, appearing to read 'Alpus H. Hsu', written in a cursive style.

Alpus H. Hsu
Primary Examiner
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